

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

|                           |   |                                     |
|---------------------------|---|-------------------------------------|
| UNITED STATES OF AMERICA, | : |                                     |
|                           | : | Case No. 3:91cr0035                 |
| Plaintiff-Respondent,     | : | Civil Case No. 3:05cv0202           |
| vs.                       | : | District Judge Walter Herbert Rice  |
|                           | : | Magistrate Judge Sharon L. Ovington |
| GABRIEL CARL BARBER,      | : |                                     |
|                           | : |                                     |
| Defendant-Petitioner.     | : |                                     |

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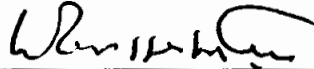
**DECISION AND ENTRY ADOPTING THE REPORT AND RECOMMENDATIONS FILED ON JUNE 6, 2005 (Case No. 3:91cr0035, Doc. #61); DENYING AND DISMISSING WITH PREJUDICE GABRIEL CARL BARBER'S PETITION TO VACATE SENTENCE (Case No. 3:91cr0035, Doc. #59); DENYING A CERTIFICATE OF APPEALABILITY UNDER 28 U.S.C. §2253(C); AND TERMINATING THESE CASES ON THE DOCKET OF THIS COURT**

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The Court has conducted a de novo review of the Report and Recommendations of United States Magistrate Judge Sharon L. Ovington (Case No. 3:91cr0035, Doc. #61), to whom this case was originally referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, hereby **ADOPTS** said Report and Recommendations. It is therefore **ORDERED** that:

1. The Report and Recommendations filed on June 6, 2005 (Case No. 3:91cr0035, Doc. #61) is **ADOPTED**;
2. Gabriel Carl Barber's Petition to Vacate Sentence (Case No. 3:91cr0035, Doc. #59) is **DENIED** and **DISMISSED** with prejudice;

3. A certificate of appealability under 28 U.S.C. §2253(c) shall not issue; and
4. These cases are terminated on the docket of this Court.



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Walter Herbert Rice  
United States District Judge